

Office of the Inspector General, DoD

Evaluation of Compliance With DoD Criminal Investigations Policy Memorandum Number 10, Criminal History Data Reporting Requirements

Executive Summary

Introduction. This evaluation was performed as a result of a requirement in the "National Defense Authorization Act for Fiscal Year 1996." The Secretary of Defense was directed to provide a report to Congress on the consistency with which fingerprint cards and final dispositions are reported by the Defense Criminal Investigative Organizations (DCIOs)¹ to the Federal Bureau of Investigation (FBI) for inclusion in the Bureau's criminal history identification files.

Evaluation Objectives. The primary objective was to evaluate whether the DCIOs are reporting criminal history data to the FBI in compliance with DoD Criminal Investigations Policy Memorandum Number 10 (CPM No. 10), Criminal History Data Reporting Requirements, March 25, 1987. The Defense Criminal Investigative Service (DCIS) was not included in the evaluation because Service members committing offenses reportable to the FBI are in most cases under the jurisdiction of the Military Criminal Investigative Organizations (MCIOs)². Fingerprint submission within the DCIS is limited because most cases involve fraud and white-collar-type crimes. In these types of cases, the U.S. Marshal's Office usually does the fingerprinting and submitting of the final disposition report. Another objective was to evaluate whether or not other law enforcement activities³ of the Services collect and report information to the FBI and, if not, determine whether they should be reporting.

Evaluation Results. The MCIOs are not consistently submitting criminal history data to the FBI criminal history files. Based on the results of statistical sampling, the Army failed to send FD-249, Suspect Fingerprint Card, to the FBI in approximately 82 percent of its cases; the Navy 83 percent; and the Air Force 38 percent. Failure to submit the R-84, Final Disposition Report, in the Army was 79 percent; the Navy 94 percent; and the Air Force 50 percent. In addition to the MCIOs investigating offenses described in CPM No. 10, other Service law enforcement organizations conduct investigations described in CPM No. 10 and do not consistently report that data.

¹The DCIOs are the U.S. Army Criminal Investigation Command, the Naval Criminal Investigative Service, the Air Force Office of Special Investigations, and the Defense Criminal Investigative Service (DCIS). The DCIS is the criminal investigative arm of the Inspector General, DoD.

²The MCIOs are the U.S. Army Criminal Investigation Command; the Air Force Office of Special Investigations; and the Naval Criminal Investigative Service, which services the Navy and the Marine Corps. The MCIOs are responsible for investigating most major crime in the Military Departments, including general crime and fraud.

³Other law enforcement activities include Army Military Police, Air Force and Navy Security Police, and Marine Corps Criminal Investigation Division.

As a result, the lack of reporting to the FBI criminal history files prevents civilian law enforcement agencies from having significant information on military offenders. The evaluation identified two conditions warranting management action.

- o DoD CPM No. 10 lacks adequate policy and implementing instructions, and the MCIOs have placed little emphasis on reporting to the FBI criminal history database. Further, oversight with follow-up and validation has not occurred (Finding A).

- o Other Service law enforcement organizations conduct criminal investigations that fall under DoD CPM No. 10 reporting criteria. These organizations have no policy or implementing procedures for reporting into the FBI Criminal History Data Files except the Marine Corps Criminal Investigation Division, which implemented an interim policy in January 1996 (Finding B).

Recognizing the high level of noncompliance and the need for other law enforcement organizations to report, this office issued a memorandum to the Secretaries of the Military Departments and the Directors of Department of Defense Agencies recommending suggested reporting procedures while this office develops and issues a new DoD Instruction. The new DoD Instruction will be applicable to all DoD law enforcement organizations conducting investigations meeting requirements for criminal history data reporting.

Summary of Recommendations. We recommend that the Military Departments and Defense Agencies law enforcement organizations investigating serious offenses as described in CPM No. 10 develop interim policies and implementing procedures for reporting to the FBI criminal history data files while awaiting a new DoD Instruction.

Management Comments. The Army and Air Force concurred with Finding A and the recommendation. The Army stated that policy guidance will be established requiring submission of the FD-249 and the R-84 within 10 working days of a triggering event. The Air Force agreed to use the procedural guidance issued in the Inspector General, DoD, memorandum, November 14, 1996, until a new DoD Instruction is developed. The Navy nonconcurred with Finding A and the recommendation, stating that submission numbers for reporting purposes could not be accurately ascertained because of the FBI backlog and the potential for cards being rejected when plain language is used for reporting purposes. Navy also stated that Navy policy adequately addresses procedures for submission and disposition purposes. The Army, Navy, and Air Force concurred with Finding B and the recommendation and agreed to develop procedures for their law enforcement organizations for reporting purposes. A summary of management comments is at the end of each finding. The text of the Army, Navy, and Air Force comments is in Part III.

Concurrences, no comments, negatives, or statements stating that investigations are referred to the cognizant MCIO for action and adjudication were received from Defense Advanced Research Projects Agency, Defense Commissary Agency, Defense Investigative Service, Defense Logistics Agency, Defense Special Weapons Agency, Defense Security Assistance Agency, and the National Security Agency. The Defense Protective Service, Washington Headquarters Services, responded stating it conducts investigations and reports to the FBI Criminal History Data files. Responses were not received from the Directors of the Ballistic Missile Defense Organization, Defense Contract Audit Agency, Defense Finance and Accounting Service, Defense Intelligence Agency, Defense Legal Services Agency, National Imagery and Mapping Agency, National Reconnaissance Office, and the On Site Inspection Agency.

Evaluation Response. The Navy comments to Finding A are not responsive. The Act required a survey for a 24-month period. To ensure having accurate FBI data, our scope was limited to cover an 18-month period without backlog, beginning with 1994. Although Navy policy provides procedures for reporting requirements, the high level of noncompliance indicates procedures were not followed and follow-up and validation did not occur. We request the Navy and the Directors of the Defense Agencies listed in the Management Comments who did not respond to the draft report provide comments to the final report by April 11, 1997.